

narrowband cellular services. Today, fully 75% of these communities have no wireless service at all. At the same time, the Proposed Transaction will create no significant *public interest harms*. *GCI Parent and its subsidiaries, including GCI, do not currently compete with the UCI Subsidiaries for CMRS or wireline local exchange customers in any Alaskan community,*³ and existing competition with respect to facilities-based interstate interexchange telecommunications services between the UCI Subsidiaries' service area and the rest of the United States will not be harmed by the Proposed Transaction.

The parties therefore respectfully request that this Application be granted as expeditiously as possible and request that the Federal Communications Commission (the "Commission") designate this application as a permit-but-disclose proceeding covered by Section 1.1206 of the Commission's rules.

I. INTRODUCTION

The Proposed Transaction is not complicated. GCI proposes to purchase 100% of UUI and Unicom's stock. This would result in a transfer of control of (1) all of the UCI Subsidiaries' terrestrial wireless and earth station licenses and (2) Unicom's international resale authority and UUI and United-KUC's domestic transmission lines from UCI to GCI Parent. This statement includes a narrative description of the parties and the Proposed Transaction, the attendant public interest benefits, and attachments containing

³ As discussed further below, GCI has provided notice to United-KUC that GCI intends to activate switches for CMRS service in Bethel, McGrath and Unalakleet in order to test GCI's rural wireless technology. GCI does not yet provide commercial CMRS service in these communities. Unicom provides wireless service in Bethel, but not in McGrath or Unalakleet.

the transaction documents, completed FCC transfer application forms and other materials. Each FCC form application and its associated exhibits and filing fee have been filed separately in accordance with the Commission's rules. Following the closing of the transaction, the relevant Applicants will supplement all pending applications as required under the Commission's rules, 47 C.F.R. § 1.65, to reflect the new ownership structure of the UCI Subsidiaries.

A. *Description of the Parties and Licensees*

The following discussion describes the parties to the Proposed Transaction and the licensees over which control would be transferred. For ease of reference, Attachments D, E and F include charts that summarize the relevant ownership structures prior to and after the Proposed Transaction, respectively.

1. The GCI Family of Companies

GCI Parent is a corporation organized under the laws of the state of Alaska and headquartered in Anchorage. Its shares trade publicly on the NASDAQ exchange under the symbol GNCMA. Through its wholly-owned subsidiaries, it provides wireless service, local and long distance wireline telephone service, cable television service, Internet access, and data communications service in Alaska.

Through its wholly owned subsidiaries, GCI Parent controls a B-block broadband PCS license, a B-block Local Multipoint Distribution System ("LMDS") license, a Specialized Mobile Radio ("SMR") license, and several Industrial/Business Pool Service and Common Carrier Fixed Point-to-Point Microwave licenses.

GCI Parent, through its wholly owned subsidiary GCI Holdings, Inc. also has a non-controlling 78 percent interest in Alaska DigiTel, LLC. Alaska DigiTel is a limited

liability company organized under the laws of the State of Alaska. Alaska DigiTel holds 30 megahertz of the A-block PCS license, a cellular license, and three microwave licenses. Alaska DigiTel is separately managed and operates at arms-length from GCI Parent and GCI on a day-to-day basis.

Through its indirect, wholly-owned subsidiary Alaska United Fiber System Partnership, which holds two FCC-issued cable landing licenses, GCI owns and operates Alaska United and Alaska United West, non-common-carrier undersea cable systems connecting Alaska with the continental United States. Its subsidiary GCI Communication Corp. has also applied for a cable landing license to land and operate a non-common-carrier undersea cable system known as the Southeast Alaska Fiber-Optic System, which will connect Alaska United West with 7 communities in southeastern Alaska.⁴

GCI and its wholly-owned subsidiaries provide domestic interstate common carrier services pursuant to the Commission's blanket grant of authority in 47 C.F.R. § 63.01. GCI Parent also holds international Section 214 authority to provide resold international telecommunications services.⁵

2. The UCI Family of Companies

UCI is a corporation organized under the laws of the State of Alaska and headquartered in Anchorage. It provides wireless service, local and long distance wireline telephone service, and Internet access in Alaska through its wholly-owned

⁴ See Application of GCI Communication Corp. for a License to Land and Operate a Private Fiber-Optic Cable System, to Connect the Alaska Communities of Angoon, Hawk Inlet, Juneau, Ketchikan, Petersburg, Sitka, and Wrangell with the Existing Alaska United West System, FCC File No. SCL-LIC-INTR2007-02532 (filed Oct. 23, 2007).

⁵ *General Communication Inc. Application for Authority to Operate as an International Resale Carrier*, Order, FCC File No. ITC-86-082, 1986 FCC LEXIS 3374 (Com. Car. Bur., rel. May 20, 1986).

subsidiaries UUI (including UUI's wholly-owned subsidiary United-KUC) and Unicom. UUI and United-KUC are both incumbent local exchange carriers. UCI's stockholders are two Alaska Native village corporations – Sea Lion Corporation (“Sea Lion”) of Hooper Bay, Alaska, and Togiak Natives Ltd. (“Togiak”) of Togiak, Alaska.⁶ Sea Lion owns 92.79 percent of the stock and has 92.79 percent voting control of UCI. Togiak owns 7.21 percent and has 7.21 percent voting control of UCI. Through its wholly owned subsidiaries, UCI controls Cellular, Common Carrier Fixed Point-to-Point and Microwave licenses. UUI jointly controls (with AT&T Alascom) 42 Earth Station licenses.

Unicom provides domestic interstate common carrier services, including CMRS and interexchange services, pursuant to the Commission's blanket grant of authority in 47 C.F.R. § 63.01. It also provides international common carrier services by resale pursuant to authorization ITC-214-19960116-00009.⁷

B. *Description of the Proposed Transaction*

GCI proposes to acquire all of the outstanding stock of the UCI Subsidiaries, including UUI's ownership of United-KUC. GCI will accomplish this pursuant to a single Stock Purchase Agreement dated October 12, 2007 (“Stock Purchase Agreement” or “Agreement”), among GCI Communication Corp., United Companies, Inc., Sea Lion Corporation, and Togiak Natives Ltd., a copy of which is attached hereto as Attachment 1

⁶ Sea Lion and Togiak were organized pursuant to the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1601 *et seq.*, to manage the assets received by the Alaska Native villages of Hooper Bay and Togiak in settlement of their aboriginal land claims against the federal government.

⁷ See *Overseas Common Carrier Section 214 Application Actions Taken*, Public Notice, Report No. I-8155, 1996 FCC Lexis 1267 (rel. March 14, 1996) (granting Unicom, Inc.'s application for international section 214 authority under File No. ITC-96-033).

in the same form as was provided to the Regulatory Commission of Alaska.⁸ The Proposed Transaction is dependent upon GCI's acquisition of all three entities; acquisition of only one or two of the entities cannot stand on its own. Furthermore, all of the purchased entities are under common ownership, management, and control.

The Stock Purchase Agreement provides that the directors of the UCI Subsidiaries shall resign effective as of the closing of the transaction. The directors shall be succeeded by individuals chosen by GCI.

Mr. Steve Hamlen, current President and CEO of UUI, United-KUC, and Unicom, has been retained by GCI to continue managing UUI, United-KUC, and Unicom post-closing. No personnel changes, other than those occurring in the normal course of business, are currently planned.

II. STANDARD OF REVIEW

As with any such transaction, the Commission will approve the proposed transfer of control if, after weighing "the potential public interest harms of the proposed transaction against the public interest benefits," it concludes that, "on balance," doing so would serve the public interest.⁹ Under the "balancing process"¹⁰ employed by the

⁸ Applicants will provide the Commission with an unredacted copy of the Stock Purchase Agreement upon request and subject to a request for confidential treatment.

⁹ See, e.g., *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18290, ¶ 16 (2005) ("SBC/AT&T Order"); *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18433, ¶ 16 (2005); *Applications of Nextel Communications, Inc. and Sprint Corporation; For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd 13967, ¶ 20 (2005); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 19 FCC Rcd 21522, ¶ 40 (2004)

Commission, where the potential harms are great, the potential benefits must be great; conversely, where (as here) the potential harms are small or nonexistent, the potential benefits need only be of a similar scale.¹¹ In making this determination, the Commission first must determine whether the proposed transaction complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules.¹²

("Cingular/AT&T Wireless Order"); General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee, for Authority to Transfer Control, Memorandum Opinion and Order, 19 FCC Rcd 473, ¶ 15 (2004); Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, Memorandum Opinion and Order, 15 FCC Rcd 14032, 14046, ¶¶ 20, 22 (2002); Applications of VoiceStream Wireless Corporation and Powertel, Inc., Transferors, and Deutsche Telekom AG, Transferee, Memorandum Opinion and Order, 16 FCC Rcd 9779, 9789, ¶ 17 (2001); Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules, Memorandum Opinion and Order, 14 FCC Rcd 14712, ¶ 48 (1999); Applications of NYNEX Corporation Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of NYNEX Corporation and Its Subsidiaries, Memorandum Opinion and Order, 12 FCC Rcd 19987, ¶ 2 (1997).

¹⁰ *Applications for Consent to the Assignment and/or Transfer of Control of Licenses; Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors and Transferors, to Comcast Corporation (subsidiaries), Assignees and Transferees; Comcast Corporation, Transferor, to Time Warner Inc., Transferee; Time Warner Inc., Transferor, to Comcast Corporation, Transferee, Memorandum Opinion and Order, 21 FCC Rcd 8203, ¶ 23 (2006) ("Adelphia Order").*

¹¹ *See, e.g., Adelphia Order ¶ 23; Applications for Consent to the Transfer of Control of Licenses from Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee, Memorandum Opinion and Order, 17 FCC Rcd 23246, ¶ 218 (2002) ("AT&T/Comcast") (observing that "in balancing the public interest harms and benefits, we employ a sliding scale approach" that "examine[s] the likelihood and the magnitude of the potential public interest harms").*

¹² *See, e.g., AT&T/Comcast ¶ 26.*

The public interest analysis also involves an examination of potential effects of the transaction on competition in relevant markets.¹³ “Despite its broad authority, the Commission has held that it will impose conditions only to remedy harms that arise from the transaction (*i.e.*, transaction-specific harms) and that are reasonably related to the Commission’s responsibilities under the Communications Act and related statutes.”¹⁴ The Commission has repeatedly admonished that a transfer of control proceeding must focus on benefits and harms that are specific to the proposed transaction, and is not an open forum for raising pre-existing or industry-wide disputes.¹⁵

As discussed below, the proposed transaction would create substantial public interest benefits, and it will create no public interest harms. Accordingly, the Commission should not only grant this application – it should do so expeditiously.

¹³ See, e.g., *EchoStar Communications Corporation, Hughes Electronics Corporation, and General Motors Corporation*, Hearing Designation Order, 17 FCC Rcd 20559, ¶ 27 (2002); *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from MediaOne Group, Inc., Transferor, To AT&T Corp., Transferee*, Memorandum Opinion and Order, 15 FCC Rcd 9816, ¶ 10 (2000).

¹⁴ *Adelphia Order* ¶ 26.

¹⁵ See, e.g., *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc., Transferors, to AOL Time Warner Inc., Transferee*, Memorandum Opinion and Order, 16 FCC Rcd 6547, ¶ 6 (2001) (“The Commission recognizes and discourages the temptation and tendency for parties to use the license transfer review proceeding as a forum to address or influence various disputes with one or the other of the applicants that have little if any relationship to the transaction or to the policies and objectives of the Communications Act”).

III. THE PROPOSED TRANSACTION COMPLIES WITH THE REQUIREMENTS OF THE COMMUNICATIONS ACT, THE COMMISSION'S RULES, AND ALL OTHER APPLICABLE STATUTES, AND WILL SIGNIFICANTLY BENEFIT THE PUBLIC INTEREST.

This straightforward transaction complies with the Communications Act, the Commission's rules, and does not implicate any other applicable statute. The Proposed Transaction involves two carriers that are already Commission licensees, that provide international services by resale, and that are U.S. owned and operated companies.

The Proposed Transaction would produce significant public interest benefits because it would make progress on one of the Commission's most important public interest goals – bringing advanced telecommunications services to rural Alaska as rapidly and effectively as possible. It would do so by bringing what will ultimately be an up to 1 Mbps mobile wireless broadband service to the UCI Subsidiaries' service areas for the first time,¹⁶ and by providing Unicom resources it currently lacks as it prepares to complete an aggressive plan to build out a fixed microwave network, comply with government requirements, and meet new customer needs.

A. The Transaction Will Significantly Accelerate Access to Wireless Broadband in the UCI Subsidiaries' Rural Communities

The Proposed Transaction would create significant public interest benefits by enabling GCI and the UCI Subsidiaries to join forces in bringing up to 1 Mbps mobile wireless broadband wireless services to the UCI Subsidiaries' service areas for the first time, through the new *GCI Rural Wireless* program. The transaction will allow delivery

¹⁶ Ultimately, the Proposed Transaction will result in delivery of wireless broadband at speeds of 1 Mbps in the strong majority of communities within the UCI and United-KUC service areas. Currently, the UCI Subsidiaries offer wireline broadband service in a subset of served communities at speeds of up to 256/128 kbps for residential service and 512/128 kbps for business service.

of the vast service enhancements of this new program to the UCI Subsidiaries' rural communities far more quickly and at a far higher quality than would be possible without access to the complementary infrastructure and spectral resources of GCI and Unicom.

The *GCI Rural Wireless* program is an ambitious effort to bring wireless voice and broadband data service to more than 200 Alaskan communities, including some of the most isolated in the State. The program will provide statewide mobility and roaming capabilities, up to 1 Mbps broadband, improved emergency and security access, and a quality wireless alternative for consumers who heretofore have had service inferior to that found elsewhere in the country. The system will support modern, digital wireless technologies, allow a full-featured CMRS experience, and ultimately deliver broadband data rates of up to 1 Mbps per second.

If the transaction is approved, GCI plans to begin to bring improved wireless voice services to many of the rural communities in the UCI Subsidiaries' service areas within twelve months, with wireless broadband services following shortly thereafter. This would be a great improvement over currently available wireless services. In fact, today there is little or no wireless voice service in many of the communities served by the UCI Subsidiaries – and broadband service at the 1 Mbps rate is almost universally not offered.¹⁷ Even where wireless voice service is available, it is often a far cry from what consumers in other parts of the country are used to receiving. With the exception of Bethel, which has a CDMA-based digital wireless service, and, in the near future, Aniak,

¹⁷ See Regulatory Commission of Alaska, Internet Connectivity Spreadsheet (Jan. 12, 2007), available at http://www.state.ak.us/rca/Broadband/Internet_connectivity-070112.pdf. The two exceptions are Bethel, where GCI provides a cable modem service, and Manley Hot Springs, where Yukon Telephone Company provides a 2 Mbps broadband service. *Id.*

where a CDMA service will soon be offered, the UCI Subsidiaries currently offer an extremely basic wireless service. Outside of Bethel and Aniak, it is analog, has no *automatic roaming capability, and callers looking to reach the UCI Subsidiaries' wireless consumers cannot even dial them directly.* Much like the long distance services of over twenty years ago, callers seeking to reach a wireless consumer must dial a central line, which then provides a second dial tone, at which point the caller dials a second number to reach the wireless subscriber. The Proposed Transaction will change this for the better, as GCI will be able to combine the core wireless network it is building with Unicom's spectrum, towers and microwave backhaul to provide a modern, mobile wireless service. Subscribers not only will be able to place calls directly, but will also have access to features and functionalities that are comparable, and in some cases exceed, those available in the rest of the country. With a modern digital wireless system, consumers throughout the UCI Subsidiaries' service areas will for the first time be able to roam throughout Alaska and when they travel to other parts of the United States and the world.¹⁸

Specifically, Unicom's towers and related wireless infrastructure would form the backbone of a combined wireless broadband system in these areas. Use of these existing towers would allow the rapid deployment of new antennas and electronics to the region, without the need to invest the financial resources and to suffer the delay involved in siting and constructing new towers with the height and structure to support the needed equipment. Existing point-to-point links would provide an already-existing backhaul

¹⁸ Customers in Bethel can automatically roam to Anchorage (but not elsewhere in Alaska) and the rest of the United States. Remaining Unicom wireless customers have access to manual roaming only.

system for the wireless service, again reducing cost and delay. Finally, Unicom's 800 MHz cellular licenses would provide important capacity and flexibility to the design and operation of the system.

Moreover, by accelerating the deployment of GCI's *Rural Wireless* project, this transaction also strengthens and stabilizes the statewide deployment of that project, even outside of the UCI Subsidiaries' service areas. To implement its *Rural Wireless* project, GCI is making substantial upfront investments in its Anchorage-based core wireless systems, which are the heart of this project's innovative architecture. Accelerating deployment in the UCI Subsidiaries' areas will help GCI achieve critical scale more quickly for the project as a whole, which accelerates the time within which the *Rural Wireless* project will be self-sustaining. Furthermore, by allowing GCI to more easily deploy these services in the UCI Subsidiaries' areas, GCI will have more resources to devote to rolling out service in the rest of Alaska more quickly.

Without the transaction, GCI's deployment of its *Rural Wireless* project would be much slower, and the entire statewide project would take longer to reach a self-sustaining scale. In the UCI Subsidiaries' areas, GCI would have to procure new sites for towers and earth stations for backhaul, and build those towers and earth stations. This is not a small task in rural Alaska, which has a limited construction season, a sensitive environment, and a scarcity of available private land. GCI would have to arrange for backhaul from those sites to an earth station, which would require additional construction. In the difficult rural environment the UCI Subsidiaries' service areas present, the cost reductions, time savings, and spectrum flexibility created by the

Proposed Transaction would translate into wireless voice and broadband data services reaching consumers far faster and more robustly.

In sum, the transaction would provide a significant public interest benefit because GCI and the UCI Subsidiaries together would be able to rapidly offer a richly functioned, state-of-the-art wireless voice and broadband product to communities in the UCI Subsidiaries' service areas where today even standard wireless voice services are often not available. Moreover, the transaction will accelerate the deployment of rural wireless service statewide.

B. The Proposed Transaction Would Bring the UCI Subsidiaries the Resources Needed to Complete Network Upgrades, and to Meet Government Requirements and Consumer Needs

The transaction would also create public interest benefits by making far greater financial and network resources available to the UCI Subsidiaries. Although the companies are financially stable and well-run, their ability to raise the capital needed to maintain their networks, prepare for government requirements, and improve services in response to consumer needs is limited by the amount of cash flow (approximately \$8 million in 2006) generated by their operations. The UCI Subsidiaries also are, in aggregate, highly leveraged. If the Proposed Transaction is approved, the existing financial strength of the companies would be productively augmented by the additional financial strength of GCI Parent and GCI. GCI Parent and GCI's financial strength would provide the UCI Subsidiaries with access to capital beyond that which the companies could raise without the transaction.

The additional access to capital resulting from the Proposed Transaction would produce immediate and specific public interest benefits. Without additional resources,

the UCI Subsidiaries have no immediate plans to upgrade the existing cellular systems to a digital wireless network¹⁹ and would be able to discontinue CDMA analog service once the analog transmission requirement ends in February 2008. An upgraded digital wireless network will provide better call security and privacy, and will facilitate better law enforcement access.

Furthermore, the UCI Subsidiaries are currently engaged in an ambitious project to construct and operate an extensive long-haul terrestrial microwave telecommunications system throughout the Yukon-Kuskokwim Delta ("Y-K Delta"), a vast region of approximately 30,000 square miles. Known as *DeltaNet*, this project is intended to provide voice, low-latency video conferencing, and high-speed data services to nearly 50 communities in the Y-K Delta at a total construction cost of approximately \$50 million. The UCI Subsidiaries' have only recently completed the first phase of this project – *DeltaNet's* core ring – and are finding it difficult to assemble the financing to complete the project as planned.

The construction of *DeltaNet* has put considerable strain on UCI's financial resources. As a result, the UCI Subsidiaries, as a group, are substantially more leveraged than the typical local exchange company and have limited ability to raise significant additional capital. The Proposed Transaction would ensure that *DeltaNet* is completed on a timely basis and that capital would be available to extend *DeltaNet's* capabilities and footprint in the future.

Completion of the *DeltaNet* project would create public interest benefits by substantially improving telecommunications service throughout the Y-K Delta. The

¹⁹ Unicom plans to deploy a digital wireless system in Aniak in the near future. It does not presently offer any cellular service in Aniak.

region's dependence on lower-capacity and higher-latency satellite networks would be reduced. In particular, *DeltaNet* would benefit the Y-K Delta's school districts and regional healthcare provider. In-region videoconferencing for telemedicine and distance learning would be greatly enhanced by the low-latency nature of a terrestrial microwave network. Students and all other residents of the Y-K Delta would similarly benefit.

The transaction would also represent a success story for the UCI Subsidiaries' indirect owners, Sea Lion and Togiak. Sea Lion and Togiak saw the value of investing in communications infrastructure for their communities over twenty years ago. This transaction means that their long-term investment has now led to their rural communities' networks being strengthened by a new influx of resources from GCI Parent and GCI, and also that the company can distribute part of the proceeds to their Native and other local investors and reinvest the rest, thus strengthening the local economy.

For all of the foregoing reasons, the Proposed Transaction is in the public interest, and Applicants request that the Commission grant approval for the transfer of authority to GCI Parent with respect to the UCI Subsidiaries.

IV. THE PROPOSED TRANSACTION WILL RESULT IN NO PUBLIC INTEREST HARMS.

A. Mobile Voice and Broadband Services

The Proposed Transaction would not result in any public interest harms in the wireless and mobile broadband markets. GCI Parent and GCI (including for this purpose Alaska DigiTel) do not offer commercial wireless telephone services in any of the same communities as the UCI Subsidiaries. While GCI is about to bring CMRS switches into service in McGrath and Unalakleet, the UCI Subsidiaries do not provide wireless service

in those communities. In any event, these switches, as well as a CMRS switch GCI will place into service in Bethel, will be used initially for testing GCI's rural wireless technology. Therefore the transaction will not eliminate an existing competitor from any relevant wireless telephone markets.

The UCI Subsidiaries, through Unicom, provide rudimentary cellular telephone service in fourteen Alaskan communities, plus CDMA service in Bethel and, in the near future, Aniak. Unicom provides service in these communities using licenses applied for under the Commission's unserved area licensing process. As such, these licenses do not give Unicom spectrum rights over the large geographic areas encompassed in the relevant Alaska CMAs. Instead, they give it rights only in very constrained areas that were left unserved after the end of the Cellular A and B blocks' buildout periods.²⁰ Unicom is the only facilities-based wireless service provider actually providing commercial service in each of these communities.

For purposes of examining subscriber-based market concentration, the only relevant geographic markets are those fifteen communities (plus Aniak at such time that service is deployed as planned) served by Unicom, as they are the only markets where Unicom has the rights to provide service, and where the transaction will have any impact. GCI Parent, its subsidiaries, including GCI, and Alaska DigiTel do not provide a commercial CMRS service in any of these communities. Alaska DigiTel currently provides facilities-based wireless service offerings throughout Anchorage, the Matanuska Valley, Fairbanks and Juneau. The transaction therefore, does not increase subscriber-based market concentration in any relevant geographic market. Today, the UCI

²⁰ See Attachment C for a list of UCI's wireless service areas, all of which are served by Unicom.

Subsidiaries are the only entity to have invested the resources needed to provide service to these remote communities, with Unicom the only offeror of full commercial CMRS voice service.

Although the transaction will not have any competitive impact on the market for the provision of a commercial CMRS voice service, the Commission has also typically analyzed the input market for spectrum. While the transaction will result in GCI having access to 85 MHz of spectrum in the sixteen communities where Unicom holds cellular licenses – but not statewide or even in all parts of the UUI and United-KUC wireline local service areas – the presence of many other licensees with adequate spectrum results in the transaction not creating any potential competitive harm.

The input market for spectrum includes cellular, PCS, AWS, SMR, and 700 MHz spectrum, and currently totals approximately 350 MHz.²¹ The Commission has previously found that “mobile telephony services offered by cellular, PCS, and SMR licensees employ various technologies provide the same basic voice and data functionality and are indistinguishable to the consumer.”²² This reasoning applies

²¹ The Commission has previously found that there is 200 MHz of cellular, PCS and SMR spectrum in Alaska. *Applications for the Assignment of License from Denali PCS, L.L.C. to Alaska DigiTel, L.L.C. and the Transfer of Control of Interests in Alaska DigiTel, L.L.C. to General Communication, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd 14863, ¶ 28 (2006) (“*Alaska DigiTel Order*”). In addition, there is 90 MHz of AWS spectrum and at least 60 MHz of 700 MHz spectrum for CMRS voice services. *Id.* at ¶ 29; see also *Auction of 700 MHz Band Licenses Scheduled for January, 16, 2008; Comment Sought on Competitive Bidding Procedures for Auction 73*, Public Notice, AU Docket No. 07-157, Attachment A (rel. Aug. 17, 2007).

²² *Alaska DigiTel Order* ¶ 31 & n.106.

equally to AWS and 700 MHz licensees as these licensees will offer services indistinguishable to the consumer as well.²³

The Commission has previously found that “even the loss of GCI as a potential competitor would *not* result in competitive harms in the Anchorage market or *in any other market in the state or Alaska.*”²⁴ The spectrum not held by GCI, Alaska DigiTel or Unicom is held by between at least 8 and 10 different entities, depending on the area, none of which are affiliated with GCI.²⁵ Even attributing the Alaska DigiTel spectrum to GCI, there is plenty of spectrum capacity – approximately 265 MHz – that another provider could use to offer wireless services in the UCI Subsidiaries’ service areas within the reasonable timeframe for entry. GCI will in no way be able to “block” additional CMRS entry as a result of this transaction.

B. Local Exchange and Exchange Access Services

As discussed above, the Proposed Transaction has significant public interest benefits. In addition to bringing the benefits detailed above to communities and

²³ Although the Commission did not include 700 MHz and AWS spectrum in its analysis of input markets for spectrum in the *Alaska DigiTel Order*, further time has elapsed to allow for the clearing of the AWS spectrum. The 700 MHz auctions are now scheduled, and the ultimate DTV transition date is now less than 18 months away. Given the time needed for new entry, the 700 MHz spectrum should be considered fully available for any additional entry to provide mobile voice and broadband services in the UCI areas. Further, even if the Commission does not include the AWS and 700 MHz spectrum, there still remains 145 MHz of spectrum held by at least four other entities not affiliated with either the UCI Subsidiaries or GCI Inc.

²⁴ *Alaska DigiTel Order* ¶ 75 (emphasis added).

²⁵ The Commission has previously found that neither Dobson’s nor Sprintcom’s spectrum holdings should be attributable to GCI. *Id.* at ¶¶ 53-57. In none of these areas does Unicom or any other of the UCI Subsidiaries hold more than 25 MHz of cellular, PCS, SMR, or AWS spectrum. The 700 MHz spectrum has not yet been licensed.

customers served by the UCI Subsidiaries, the Proposed Transaction will not harm the local exchange or exchange access markets.

GCI does not presently offer local exchange service in any of the 61 communities in the UCI Subsidiaries' service areas, nor is it even authorized to do so outside of Bethel. GCI was recently granted authority to provide local exchange service in Bethel, but not in the remaining communities within United-KUC's study area.²⁶ That certificate does not, however, require GCI to initiate service immediately and requires only that GCI phase in service over a period of five years.²⁷

In any event, any loss of potential entry by a distinct corporate entity is more than offset by the overall public interest benefits of the transaction. As detailed above, the transaction will ensure that customers throughout the UCI Subsidiaries' service areas have access to up to 1 Mbps wireless broadband services and modern digital wireless voice services as a result of the accelerated deployment of the *Rural Wireless* program. Similarly, the completion of the *DeltaNet* project will provide greater and faster regional connectivity, to the benefit of all the consumers in the Y-K Delta region, including those in Bethel.

²⁶ See *Copper Valley Telephone Cooperative, Inc. v. Regulatory Commission of Alaska*, Order, Case No. 3AN-05-14077 CI (Oct. 5, 2007) (holding GCI's application to serve Bethel took effect by operation of law but invalidating subsequent RCA action granting GCI authority to serve additional communities within United-KUC's service area).

²⁷ *Application by GCI Communication Corp. d/b/a General Communication, Inc., and GCI for an Amendment to its Certificate of Public Convenience and Necessity to Operate as a Competitive Local Exchange Telecommunications Carrier*, U-05-4, GCI's Initial Brief at 7 (filed Dec. 18, 2005) (detailing previous five-year phase-in condition and affirming GCI willingness to serve under that condition). In addition, GCI affirmed its ability to serve using wholesale resale service. *Id.* at 6.

C. Interstate Interexchange Services

As discussed above, the Proposed Transaction has significant public interest benefits. In addition to bringing the benefits detailed above to communities and customers served by the UCI Subsidiaries, the Proposed Transaction will not harm the interstate interexchange market.

The Alaska interstate interexchange market is currently served primarily by GCI and AT&T Alascom as facilities-based providers. The UCI Subsidiaries, through Unicom, offer long distance service in the Bethel area and 60 additional communities in conjunction with AT&T Alascom,²⁸ but do so by reselling AT&T Alascom's service. For 42 of these communities, long distance traffic is transmitted to AT&T's satellite via earth station facilities that are jointly-owned by UUI and AT&T Alascom. For another 18 of these communities, long distance traffic is transmitted to AT&T's satellite via earth station facilities solely owned by AT&T Alascom. For the remaining community, long distance traffic is transmitted terrestrially over AT&T facilities. With this one exception, all interstate and international traffic to and from the UCI Subsidiaries' service areas is currently transported by either AT&T Alascom or GCI via their respective satellites to points where such traffic can be placed onto fiber networks. Although *DeltaNet* provides a potential terrestrial route for interstate and international traffic to move from a

²⁸ In addition to Bethel, Unicom offers long distance service in Akiachak, Akiak, Alakanuk, Arctic Village, Atnautluak, Beaver, Birch Creek, Central, Chalkyitsik, Cheforak, Chenega Bay, Chevak, Chuathbaluk, Eek, Emmonak, Gambell, Goodnews Bay, Hooper Bay, Kasigluk, Kipnuk, Kongiganak, Kotlik, Kwethluk, Kwigillingok, Lake Minchumina, Lime Village, Livengood, Manley Hot Springs, Marshall, McGrath, Mekoryuk, Minto, Mountain Village, Napakiak, Napaskiak, Newtok, Nightmute, Nikolai, Nunam Iqua, Nunapitchuk, Oscarville, Pilot Station, Pitka's Point, Platinum, Quinhagak, Rampart, Russian Mission, St. Mary's, Savoonga, Scammon Bay, Stevens Village, Takotna, Togiak, Toksook Bay, Tuluksak, Tuntutuliak, Tununak, Twin Hills, Unalakleet and Venetie.

community to a regional aggregation point, it would not replace the need for a transmission facility between the UCI Subsidiaries' service areas and the fiber networks, *and the companies do not own any transmission facilities between their service areas and fiber termination points.* Thus, the transaction will not lead to any further concentration in the market for transporting traffic between the UCI Subsidiaries and the rest of the United States. In any event, the price for switched interstate interexchange wholesale carriage between the UCI Subsidiaries' service areas and the rest of the United States is set by statute, and is not set by Alascom, GCI or UUI.²⁹

The fact that the UUI and AT&T jointly own and operate 42 earth stations in the UCI Subsidiaries' service areas does not alter the structure of the interexchange transport market for interstate and international traffic to and from these service areas. The compensation paid to UUI by AT&T Alascom is dictated by the terms of NECA's interstate access tariff, and is not set unilaterally by any of the UCI Subsidiaries. Thus, it is no different than with any other independent LEC that provides interexchange services through a separate affiliate. Moreover, AT&T Alascom remains free to construct additional earth stations or to purchase the UCI Subsidiaries' interest in the jointly-owned earth stations.

²⁹ P.L. 108-447, Division J, Sec. 112, at 537 (2004).

Although GCI now operates some of its own earth stations in the UCI Subsidiaries' service areas,³⁰ FCC rules also set forth the structure that must and will be used as between GCI's long distance operations and UUI and United-KUC's incumbent local exchange carrier operations. Specifically, GCI's long distance operations and UUI and United-KUC's incumbent LEC operations will be conducted through separate legal entities, utilizing separate books of account, without jointly owned transmission or switching equipment, and with GCI's purchasing services from UUI and United-KUC at tariffed rates, terms and conditions.³¹ Thus, the relationship between GCI, UUI and United-KUC will not present any public interest harms.

V. MISCELLANEOUS REGULATORY ISSUES

In addition to seeking the Commission's approval of the transfers of control of the authorizations and spectrum leases covered in these applications, the Applicants also request approval for the additional authorizations described below.

³⁰ In Alaska Bush areas, defined as "rural Alaskan communities of less than 1,000 residents that are isolated from larger cities by rugged terrain and harsh weather conditions" including many communities served by the UCI Subsidiaries, the history of facilities-based competition in the provision of interexchange services is relatively brief. Until 2003, the Commission had in place a policy – the Alaska Bush Earth Station Policy – that precluded installing or operating more than one satellite earth station in any Alaskan Bush community for competitive carriage of interstate interexchange telephone calls. *Policy for Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska*, Report and Order, 18 FCC Rcd 16874, ¶ 1 (2003). Before that policy was repealed, GCI had entered portions of the Alaska Bush interexchange market by requesting and receiving from the FCC and RCA waivers necessary to permit installation of earth stations in 50 Alaska Bush communities. *Id.* at ¶ 3. The Alaska Bush Earth Station Policy was repealed in 2003. *Id.* at ¶ 1.

³¹ See 47 C.F.R. § 64.1903.

A. After-Acquired Authorizations

While the list of call signs and file numbers referenced in each application is intended to be complete and to include all of the licenses and authorizations held by the respective licensees, and any *de facto* transfer spectrum leases, that are subject to the transaction, the UCI Subsidiaries may now have on file, and may hereafter file, additional requests for authorizations for new or modified facilities which may be granted or may enter into new spectrum leases before the Commission takes action on these transfer applications. Accordingly the Applicants request that any Commission approval of the applications filed for this transaction include authority for GCI to acquire control of: (1) any authorization issued to the respective licensees/transferees during the pendency of the transaction and the period required for consummation of the transaction; (2) any construction permits held by the respective licensees/transferees that mature into licenses after closing; (3) any applications that are pending at the time of consummation; and (4) any *de facto* transfer leases of spectrum into which the UCI Subsidiaries enter as lessee during the pendency of the transaction and the period required for consummation of the transaction. Such action would be consistent with prior decisions of the Commission.³²

Moreover, because GCI is acquiring the UCI Subsidiaries and all of their FCC

³² See, e.g., *SBC/AT&T Order* ¶ 212; *Cingular/AT&T Wireless Order* ¶ 275; *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from S. New Eng. Telecomms. Corp., Transferor, to SBC Commc'ns, Inc., Transferee*, Memorandum Opinion and Order, 13 FCC Rcd 21292, ¶ 49 (1998); *Applications of Pac. Telesis Group and SBC Commc'ns Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 2624, 2665, ¶ 93 (1997); *Applications of NYNEX Corp., Transferor, and Bell Atl. Corp., Transferee*, Memorandum Opinion and Order, 12 FCC Rcd 19985, ¶¶ 246-56 (1997); *Applications of Craig O. McCaw, transferor and Am. Tel & Tel. Co, Transferee*, Memorandum Opinion and Order, 9 FCC Rcd 5836 ¶ 137 n.300 (1994), *aff'd sub nom. SBC Commc'ns Inc. v. FCC*, 56 F.3d 1484 (D.C. Cir. 1995), *recons. in part*, 10 FCC Rcd. 11786 (1995).

authorizations and any de facto transfer leases of spectrum, GCI requests that Commission approval include any authorizations or leases that may have been inadvertently omitted when GCI and the UCI Subsidiaries filed the appropriate notifications.

B. Trafficking

To the extent any authorizations for unconstructed systems are covered by this transaction, these authorizations are merely incidental, with no separate payment being made for any individual authorization or facility. Accordingly, there is no reason to review the transaction from a trafficking perspective,³³ and Section 1.2111(a) does not require disclosure of the Stock Purchase Agreement.³⁴ Nevertheless, the Applicants are filing the Stock Purchase Agreement in the form in which it was filed with the Regulatory Commission of Alaska.

C. Blanket Exemption to Cut-Off Rules

The public notice announcing this transaction will provide adequate notice to the public with respect to the licenses involved, including any for which license modifications are now pending. Therefore, no waiver needs to be sought from Sections 1.927(h) and 1.929(a)(2) of the Commission's rules to provide a blanket exemption from

³³ See 47 C.F.R. § 1.948(i) (2007) (noting that the Commission *may* request additional information regarding trafficking if it appears that a transaction involves unconstructed authorizations that were obtained for the principal purpose of speculation); *id.* § 101.55 (c)-(d) (permitting transfers of unconstructed microwave facilities that are "incidental to a sale of other facilities or merger of interests").

³⁴ See *id.* at § 1.2111(a).

any applicable cut-off rules in cases where the Applicants file amendments to pending applications to reflect the consummation of the proposed transfers of control.³⁵

³⁵ See *Applications of Ameritech Corp. and GTE Consumer Servs. Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 6667, ¶ 2 n.6 (WTB 1999); *Applications of Comcast Cellular Holdings, Co. and SBC Commc'ns Inc.*, Memorandum and Order, 14 FCC Rcd 10604, ¶ 2 n.3 (WTB 1999).

VI. CONCLUSION

The Proposed Transaction will serve the public interest without creating any offsetting public interest harms. For the foregoing reasons, the Applicants respectfully request that the Commission grant this Application promptly and provide for any other authority that the Commission finds necessary or appropriate to enable consummation of the Proposed Transaction. Applicants also request that the Commission designate this Application as a permit-but-disclose proceeding under 47 C.F.R. § 1.1206.

Respectfully submitted,

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